

REMARKS

In the final Office Action, the Examiner again rejected claims 1-12 and 15 pursuant to 35 U.S.C. § 102(e) as being anticipated by Aime (U.S. Patent No. 6,467,138). Claims 1-10, 12-15 were again rejected pursuant to 35 U.S.C. § 102(b) as being anticipate by Corbett et al. (U.S. Patent No. 6,266,857). Claims 13 and 14 were objected to as being allowable. Applicants respectfully request reconsideration of the rejected claims 1-12 and 15, including independent claim 1.

In response to the Applicants' previous arguments, the Examiner noted that "the recitation a matching layer has not been given patentable weight because the recitation occurs in the preamble." Applicants respectfully request reconsideration as the Examiner failed to consider the claim format used by Applicants.

Independent claim 1 is drafted in a Jepson format (see 37 C.F.R. §1.75(e)). In particular, a preamble including an element, a following phrase of "an improvement comprising" and an additional element are provided. Claim 1 recites an electrically conductive acoustic matching layer improved by a conductor aligned relative to the top and bottom surfaces of the matching layer. For Jepson claims, the preamble is "considered to positively and clearly include all the elements or steps recited therein as part of the claimed combination" (MPEP 608.01(m), last paragraph of page 600-81 and first paragraph of page 600-82). A Jepson type claim is to be considered a combination claim. Accordingly, the preamble limitations of claim 1 have patentable weight. Claim 1 recites an electrically conductive acoustic matching layer with an aligned conductor in the matching layer, and these recitations should be considered even though part of the preamble.

Other than the Jepson format, the matching layer is part of the body of the claim. The reference to "the top and bottom surfaces" in the body of the claim requires reference to the preamble for antecedent basis. The top and bottom surfaces are defined as surfaces of a matching layer. Accordingly, the matching layer having top and bottom surfaces in the preamble gives meaning the body of the claims, so is positively claimed.

The arguments below are a repeat of the arguments responding to the previous rejection. Since the recitation of matching layer is clearly and positively part of the claimed combination as discussed above, the failure to provide patentable weight to the limitation due to placement in the preamble in response to the previous arguments should be reconsidered. A matching layer is a known component of transducer systems, and is a positive element of the claim. The preamble includes structure, not mere intended use. Accordingly, the arguments repeated below patentably distinguish from the cited references.

Claim 1 recites an electrically conductive acoustic matching layer with an aligned conductor in the matching layer. Aime and Corbett et al. do not disclose these limitations.

Aime is for a backing (title). Transducers operate in a forward direction to enhance sound propagation on one side and minimize sound propagation on an opposite side with backing material (Col. 1, lines 57-65). The embodiments of Aime are particularly concerned with the backing block or sound absorbing material (Col. 2, lines 54-56). Matching layers acoustically match the transducer to tissue and are on a side opposite the backing (Col. 5, lines 29-44). Aime provide conductors in the backing block, not the matching layers.

Corbett et al. also disclose a backing structure (title). The backing is acoustically absorbent (Col. 4, lines 19-32). The backing includes conductors in vias (Col. 4, lines 33-51). The matching layer is on an opposite side of the transducer from the backing (Col. 5, lines 1-6). Corbett et al. provide conductors in a backing material, not matching layers.

Dependent claims 2-12 and 15 depend on claim 1, so are allowable for the same reasons. Further limitations are allowable over Aime and Corbett et al. For example, claim 12 recites a conductor between separate volumes of solid matching layer material. Corbett et al. use a single volume with vias, and Aime cast a single volume around conductors.

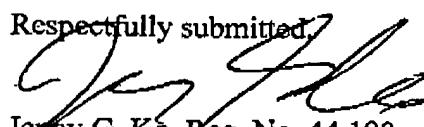
CONCLUSION:

Applicants respectfully submit that all of the pending claims are in condition for allowance and seeks early allowance thereof. If for any reason, the Examiner is unable to allow the application but believes that an interview would be helpful to resolve any issues, he is respectfully requested to call the undersigned at (650) 694-5810 or Craig Summerfield at (312) 321-4726.

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